

OFFICE OF THE CLERK

UNITED STATES COURT OF APPEALS

Marcia M. Waldron
Clerk

FOR THE THIRD CIRCUIT
21400 United States Courthouse
601 Market Street
Philadelphia PA 19106-1790

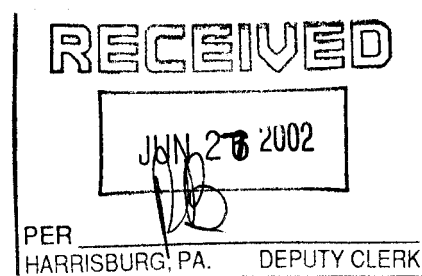
Telephone
267-299-4919

www.ca3.uscourts.gov

June 24, 2002

Mrs. Mary D'Andrea
U.S. District Court for the Middle District of Pennsylvania
Middle District of Pennsylvania
228 Walnut Street
Room 1060
Harrisburg, PA 17108

RE: Docket No. 01-3887
Bent Creek Ltd vs. Silver Spring Twp
D. C. MISC. No. 00-cv-01372



Dear Mrs. D'Andrea:

Enclosed is a certified copy of the judgment in the above-entitled case(s), together with copy of the opinion. The certified judgment is issued in lieu of a formal mandate and is to be treated in all respects as a mandate.

(X) We release herewith the certified list in lieu of the record.

Kindly acknowledge receipt for same on the enclosed copy of this letter.

Counsel are advised of the issuance of the mandate by copy of this letter. A copy of the certified judgment is also enclosed showing costs taxed, if any.

Very truly yours,
MARCIA M. WALDRON
Clerk

Teresa L. Williams
By: Teresa L. Williams
Case Manager

Enclosure

cc:

Bridget E. Montgomery, Esq.
Ron S. Chima, Esq.
Todd P. Prugar, Esq.

Acknowledged 6/27/02 Renee Britalik

Charles B. Gibbons, Esq.
Nancy E. Rostek
Thomas P. Brogan, Esq.

170ct

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 01-3887

BENT CREEK LIMITED PARTNERSHIP,
Appellant

v.

SILVER SPRING TOWNSHIP AUTHORITY

On Appeal from the
United States District Court
for the Middle District of Pennsylvania
Civil No. 00-cv-01372
District Judge: Hon. Yvette Kane ✓

FILED
HARRISBURG, PA.

JUN 27 2002

MARY E. DANDREA CLERK
Per Deputy Clerk

Submitted Pursuant to Third Circuit LAR 34.1(a)
May 24, 2002
Before: Alito, McKee and Wallace¹, Circuit Judges

JUDGMENT

This cause came to be considered on the record from the United States District Court for the Middle District of Pennsylvania and was submitted pursuant to Third Circuit LAR 34.1(a) on May 24, 2002.

On consideration whereof, it is now here ORDERED AND ADJUDGED by this Court that the judgment of the District court entered September 14, 2001 be, and the

¹The Honorable J. Clifford Wallace, Senior Circuit Judge of the United States Court of Appeals for the Ninth Circuit, sitting by designation.

same is, hereby affirmed. All of the above in accordance with the opinion of this Court.

ATTEST:


ACTING CLERK

DATED May 31, 2002

Certified as a true copy and issued in lieu
of a formal mandate on 6/24/02

Teste: 

Clerk, U.S. Court of Appeals for the Third Circuit

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 01-3887

BENT CREEK LIMITED PARTNERSHIP,
Appellant

v.

SILVER SPRING TOWNSHIP AUTHORITY

FILED
HARRISBURG, PA.

JUN 27 2002

MARY E. ANDREA, CLERK
Per [Signature]
Deputy Clerk

On Appeal from the
United States District Court
for the Middle District of Pennsylvania
Civil No. 00-cv-01372
District Judge: Hon. Yvette Kane

Submitted Pursuant to Third Circuit LAR 34.1
May 24, 2002
Before: Alito, McKee and Wallace*, Circuit Judges

(Filed May 31, 2002)

OPINION OF THE COURT

McKEE, Circuit Judge.

Plaintiff developer appeals the district court's dismissal pursuant to Fed. R. Civ.
P. 12(b)(6) of its complaint, in which plaintiff alleged a denial of its right to equal
protection under the Constitutions of the United States and the Commonwealth of

*The Honorable J. Clifford Wallace, Senior Circuit Judge of the United States Court
of Appeals for the Ninth Circuit, sitting by designation.

Pennsylvania, as well as a violation of its statutory rights under the Pennsylvania Municipal Authorities Act. 53 P.S. §306 *et seq.* For the reasons that follow, we will affirm.

Inasmuch as we write only for the parties and the district court, we need not reiterate the factual background of this appeal. Plaintiff concedes that its equal protection claim is subject to a “rational basis” analysis as no fundamental right is involved, and plaintiff is not afforded the protections that result from suspect classification such as race. We have reviewed the thoughtful Memorandum and Order of the district court filed on January 23, 2001, as well as the subsequent order filed October 15, 2001 in which the district court clarified its memorandum and order. We will affirm substantially for the reasons set forth by the district court in its Memorandum Opinion and subsequent clarification.

TO THE CLERK OF THE COURT:

Please file the foregoing Opinion.

/s/ Theodore A. McKee
Circuit Judge